Supreme Court, U.S.
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OFFICE OF THE CLERK

No. 04-572

In The

Supreme Court of the United States

IN RE: MICHAEL R. SHEMONSKY,

Petitioner.

PETITION FOR WRIT OF MANDAMUS

MICHAEL R. SHEMONSKY
268 Washington Street
East Stroudsburg, PA 18301
570-421-8260

QUESTIONS PRESENTED

1. Can Judge Vanaskie issue an order from the bench without a complaint or adverse party?

2. Can the F.B.I. arrest a citizen without a warrant, indictment or due cause?

3. Can a United States District Court judge commit perjury in an F.B.I. complaint?

4. Can an Assistant U.S. Attorney have you arrested, to keep you out of harm's way, because the U.S. Marshals were ordered to commit premeditated murder?

5. Can an Assistant U.S. Attorney call Petitioner's son, a minor at the time of the phone call, in an effort to intimidate him and libel Petitioner?

6. Can Judge Vanaskie inflict serious and irreparable harm to Atlantic Financial via an injunction on Petitioner?

7. Can Judge Vanaskie issue an injunction when the pending actions were removals from state court?

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PETITION FOR WRIT OF MANDAMUS

Petitioner, Michael R. Shemonsky, respectfully prays that a Writ of Mandamus be issued upon the Third Circuit Court of Appeals to compel them to void the injunction against Michael R. Shemonsky and to return the assets of Atlantic Financial plus court awarded damages from 1-11-90.

OPINIONS BELOW

The unpublished opinions of the Third Circuit Court of Appeals appear in Appendix A and Appendix B.

JURISDICTION

The Court of Appeals order in this matter was filed February 26, 2003. This court's jurisdiction is invoked under title 28 U.S.C. Section 1651(A).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Amendment V to the United States Constitution is set forth in Appendix B, exhibit to this petition.

STATEMENT OF THE CASE

Michael R. Shemonsky, Petitioner, is the alter ego of Atlantic Financial, a savings and loan.

On May 1, 1982, Atlantic Financial loaned the United States government $458,654,000.00 at 45% interest compounded daily for supervisory goodwill contracts.

On August 9, 1989, the United States government breached its supervisory goodwill contracts with the passage of FIRREA, a Fifth Amendment taking.

On January 11, 1990, M. Danny Wall, the unconstitutionally appointed director of the Office of Thrift Supervision illegally and fraudulently seized Atlantic Financial even though our receivable totaled $1,064,422,970.00 from the United States government (*U.S. v. Winstar Corp. et al.*, 518 U.S. 839 (1996)).

On January 7, 1994, the F.B.I. illegally arrested the Petitioner without a warrant or indictment. (Violation of the Fifth Amendment of the Constitution.)

On January 16, 2003, Thomas Vanaskie, Chief Judge of the United States District Court for the Middle District of Pennsylvania, ordered an injunction from the bench without a hearing, restraining Petitioner from filing any papers in any court pertaining to his illegal arrest and/or Atlantic Financial. (Violation of the Fifth Amendment of the Constitution.)

On August 17, 2004, the Third Circuit Court of Appeals denied judicial fraud on case 90-5392, subject to Supreme Court review.

REASONS FOR GRANTING THE WRIT

1. Shemonsky, the party seeking the writ, does not have any other means to obtain the desired relief due to fraud by the United States government.

2. Shemonsky was harmed by a prejudicial appeal by the Third Circuit Court of Appeals.

3. The United States Court of Appeals for the Third Circuit erred and abused its discretion.

4. The Chief Judge of the United States District Court for the Middle District of Pennsylvania erred and abused his discretion.

5. The writ raises important and novel problems or issues of law.

REASONS FOR NOT MAKING APPLICATION IN THE DISTRICT

The writ raises constitutional issues concerning the illegal arrest by the F.B.I. and subsequent commitment by the court, as well as the illegal restraining order by the Untied States District Court for the Middle District of Pennsylvania with multiple criminal violations by the judicial officers of the court.

EXCEPTIONAL CIRCUMSTANCES TO WARRANT THE COURT'S DISCRETIONARY POWERS

Petitioner bought stocks and bonds in a savings and loan, Atlantic Financial Federal, and has been arrested by the F.B.I. and committed to Butner North Carolina Mental

Hospital. Also Petitioner has numerous injunctions against him, put in place by the Third Circuit Court of Appeals, the United States District Court for the Eastern District of Pennsylvania and the United States District Court for the Middle District of Pennsylvania. Petitioner has proven to the F.B.I. Bank Fraud Squad in Pennsylvania that the savings and loan crisis was indeed a beguiling by Ronald Reagan and George H.W. Bush. Petitioner has found no other means of obtaining relief from any other court.

CONCLUSION

It is the opinion of Petitioner that there has been a conspiracy by the United States government and its judicial system. Therefore, petitioner seeks relief through the exercise of this Court's powers.

Dated: October 20, 2004

Respectfully submitted,

MICHAEL R. SHEMONSKY
268 Washington Street
East Stroudsburg, PA 18301
570-421-8260

APPENDIX A

BPS-102 UNREPORTED – NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 02-4586

IN RE: MICHAEL R. SHEMONSKY,
Petitioner

On a Petition for Writ of Mandamus from
the United States District Court for the
Middle District of Pennsylvania
(Related to M.D. Pa. Civ. No. 02-cv-1410)

Submitted Under Rule 21, *Fed. R. App. Pro.*
February 6, 2003

BEFORE: SCIRICA, BARRY AND AMBRO,
CIRCUIT JUDGES

(Filed February 26, 2003)

OPINION

PER CURIAM

Michael Shemonsky has filed a petition for a writ of mandamus requesting that this Court arrest District

Court Judge Conaboy for obstruction of justice and compel him to declare the Financial Institutions Recovery, Reform, and Enforcement Act of 1989 (FIRREA) unconstitutional.

The writ of mandamus will issue only in extraordinary circumstances. *See Sporck v. Peil*, 759 F.2d 312, 314 (3d Cir. 1985). As a precondition to the issuance of the writ, the petitioner must establish that there is no alternative remedy or other adequate means to obtain the desired relief, and the petitioner must demonstrate a clear and indisputable right to the relief sought. *Kerr v. United States District Court*, 426 U.S. 394, 403 (1976).

There is no federal right to require the government to initiate criminal proceedings. *Linda R.S. v. Roland D.*, 410 U.S. 614, 619 (1973); *U.S. v. Berrigan*, 482 F.2d 171, 173-74 (3d Cir. 1973). Thus, to the extent Shemonsky seeks the arrest of Judge Conaboy, he cannot demonstrate a clear and indisputable right to the relief sought. To the extent that Shemonsky seeks to challenge the constitutionality of the FIRREA, he has not shown that there is no alternate remedy available. Shemonsky has the remedy of filing such a challenge in the District Court.[1]

For the above reasons, we will deny Shemonsky's petition for a writ of mandamus.

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[1] It appears that Shemonsky has already filed such an action which was dismissed by the District Court. *See Shemonsky v. Office of Thrift Supervision, Dept of Treasury*, 733 F.Supp. 892 (M.D. Pa. 1990). The District Court's dismissal was affirmed by this Court on appeal. *See* C.A. No. 90-5392.

BPS-102

UNITED STATES COURT OF APPEALS
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No. 02-4586

IN RE: MICHAEL R. SHEMONSKY,
Petitioner

On a Petition for Writ of Mandamus from
the United States District Court
for the Middle District of Pennsylvania
(Related to M.D. Pa. Civ. No. 02-cv-1410)

Submitted Under Rule 21, *Fed. R. App. Pro.*
February 6, 2003

BEFORE: SCIRICA, BARRY AND AMBRO,
CIRCUIT JUDGES

JUDGMENT

This cause came on to be heard on a petition for writ of mandamus. On consideration whereof, it is now here

ORDERED AND ADJUDGED by this Court that the petition for writ of mandamus be, and the same is, denied.

All of the above in accordance with the Opinion of the Court.

ATTEST:

/s/ Marcia M. Waldon
Clerk

Dated: February 26, 2003

APPENDIX B

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. *90-5392 & 90-5575*

Shemonsky v. Office of Thrift Supervision

To: Clerk

1) Motion to Vacate Order Due to Fraud by the United States Government

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It is noted that although the motion is captioned in 3rd Cir. No. 90-5575, it concerns actions which occurred in 3rd Cir. No. 90-5392. Regardless of what appellate case the foregoing motion concerns, it is denied without prejudice to renewal should the Supreme Court, or an individual justice thereof, grant relief on the currently pending "Rule 22 Application which apparently addresses the same matter which is the subject of the foregoing motion.

Absent an order of the Supreme Court, or a justice thereof, specifically directing this Court to take further action in regard to either 3rd Cir. No. 90-5575 or 90-5392, no further submissions will be accepted for filing in either appellate case. As to 3rd Cir. No. 90-5392, the Court has at least twice indicated that it is unwilling to revisit its decision affirming the District Court.

For the Court,

/s/ Marcia M. Waldron
Clerk

Dated: August 17, 2004

tyw/cc: Mr. Michael R. Shemonsky
Michelle Kosse, Esq.

APPENDIX C

The Constitution

AMENDMENT V [1791]

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

APPENDIX D

Shemonsky Financial
(A Mutual Association)
268 Washington Street
East Stroudsburg, PA 18301

Voice: 570-421-8260 Fax: 570-476-9762

Re: 8Q Under the S.E.C. Act
of 1934 – Executive Changes

At a special board meeting held July 21, 2003, Michael R. Shemonsky resigned as Chief Executive Officer of Atlantic Financial and will receive a severance package amounting to $5 trillion. He will remain as Chairman of the Board and Chief Financial Officer. Nicholas C. Shemonsky, acting C.E.O, was named Chief Executive Officer.

The above changes are necessary to move Atlantic Financial forward due to the illegal injunction by Thomas I. Vanaskie. Michael R. Shemonsky plans to file a civil rights complaint against Mr. Vanaskie as well as his superiors, the Third Circuit Judicial council, in the near future.

Date: 7-22-03

Michael R. Shemonsky,
Chairman of the Board MRS